

## **Remarks and Arguments**

1. The Office Action Summary says that it is a response to a communication filed on 16 February 2005. The actual filing date was February 4, as evidenced by the OIPE date stamp.

2. Claims 13 and 21 are rejected under Section 101. The Office Action cites Section 101 as the basis for rejection. The previous Office Action **did not challenge the utility** of the invention, and such utility would be abundantly clear to a person of ordinary skill in the art. The 101 rejection made no mention whatsoever of the Examination Guidelines For Computer Related Inventions, which are the relevant provisions for a 101 rejection of a computer program. **No reason or justification was given for rejecting these two claims** except that they "are not tangibly embodied in a manner so as to be executable."

Applicant asserts that while the claims are broad, a broad computer program claim need not contain full details about how to execute the program, it must only set out features which demonstrate that the invention is novel and not obvious. **How to execute the program is clear from the Specification** of the Invention, and would be clear to a person of ordinary skill in the art. How to execute the program is clear from the flowchart Figure 2, the examples in Figures 5, 6, 7, and 8 and the description on pages 9-11 of the application. A person of ordinary skill in the art would understand the flowchart and description and could use the example screenshots to envision how to present information and solicit answers, in plain English, from a human computer user who has no knowledge of writing computer programs. While an issue might be raised under Section 112 first paragraph, or section 112 second paragraph, **Section 101 is an**

**inadequate and inappropriate ground for rejection.** Therefore, Applicant requests that these rejections be withdrawn.

If a 112 issue is thought to exist, Applicant submits the following.

The Specification **does enable a person of ordinary skill in the art to make and use the Invention, and these 2 claims are not vague and indefinite.** On page 4 of the Specification is a description of how the invention by Tidwell operates using scripts. A human computer expert manually creates a script. A special computer program interprets the script and generates a wizard. The description goes on to say that with the present Invention, a computer program is used to create the wizard and this wizard is stored in a disk file in a format that a human user does not need to understand.

A person of ordinary skill in the art would understand that the computer program created wizard disk file, in effect, replaces the human created script file. This extra computer program, the wizard builder invention that automatically builds a wizard disk file by soliciting answers from human users with no experience of writing or using computer programs, was novel at the time of the Invention. The Specification then goes on to describe how this can be achieved in the detailed description section commencing on page 8. The flowchart, Figure 2 and the description clearly indicate that the wizard builder invention continues to ask questions regarding how to connect to an industrial device and also how other similar devices differ from the first device. The answers are stored in a wizard file in a format that could be invented by a person of ordinary skill. It

is this created wizard file that is interpreted by a second computer program when the human user calls for the created wizard to be run. Again, a person of ordinary skill would be able to have this second computer program interpret the wizard file that has been created in a format he has already invented. The flowchart for this second computer program is Figure 4 of the Application.

3. Claim 16 is rejected under Section 112, second paragraph as being indefinite. Claim 16 has been amended to remove any ambiguity created by the word "suitable". **All computers have to have an operating system software means, and a person of ordinary skill in the art would know what that would be.** Such a person would also know what "personal computer", "communications card", etc. mean.

4. Claims 1-7, 9-14, and 16-21 are rejected under Section 103 in view of Wiginton and Thomas. Claims 8 and 15 are rejected under 103 as being unpatentable over Wiginton and Thomas in view of Gauthier. Attached to this Response are a Declaration and Exhibit A from the Applicant which clearly **remove Wiginton as a reference under the analysis of Applicant's *previous Response* beginning on page 11-12, due to the fact that the Applicant completed building and testing the Invention in the United Kingdom at least as early as November 15, 2000.** The Declaration authenticates the Exhibit prepared by the Applicant, and the Exhibit has specific dated evidence of the development of the Invention and its components. The Exhibit specifically shows how portions of the program and screen shots relate to Claim 1 of the Application (as amended in the Response filed February 4, 2005):

1. (Previously presented) A computer program process, called a wizard builder, executable on a computer, for adapting an application program to function with devices or sensors monitoring or controlling a process occurring in real-time, wherein the wizard builder constructs a setup wizard which sets up a de facto interface between the devices or sensors and the application program, wherein the setup wizard is constructed by means of asking a human user of the application program for answers to simple verbal questions, in English or other language convenient to a human user, about the model and manufacturer of the devices or sensors, and wherein the wizard builder does not require a human user to have any knowledge of writing or using computer programs.

If the Examiner requires further details of the program, Applicant's Attorney would appreciate a call from the Examiner, and a detailed printout of the program can be provided to the Examiner.

## **Conclusion**

Because of the above amendments, and because of the above discussion and arguments, Applicant respectfully submits that the Application, with claims as amended above, is now in condition for allowance, and that action is urgently requested. Enclosed is a check for the fee required by the attached Petition for Extension of Time.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Henry L. Smith, Jr.", written over a horizontal line.

Henry L. Smith, Jr.

Reg. # 31,425

~~DECEMBER~~ 14, 2005

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